

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

BEVERLY HILLS UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2013060957

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE AND HEARING

On October 2, 2013, the parties filed a second joint request to continue the dates in this matter. On July 3, 2013, OAH first continued the due process hearing from July 18, 2013, until October 15, 2013, in order to give the parties time to complete agreed upon independent educational evaluations and conduct an individualized education program (IEP) team meeting. The parties' explanation for this joint second request is that Student's parents have withdrawn their request for certain IEE's, other IEE's are in the process of being finalized, the parties now agree District will provide a functional behavior analysis (FBA), and the continuance is needed to conduct the FBA and hold an IEP team meeting. The parties have agreed upon dates for mediation and the due process hearing.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. However, no further continuances are contemplated for any reason, including failure to complete assessments and/or hold an IEP team meeting. The parties are being granted more than adequate time given that under the IDEA, assessments are expected to be completed and an IEP meeting held within 60 days of consent. This matter will be set as follows:

Mediation:	November 5, 2013, at 9:30 a.m.
Prehearing Conference:	November 22, 2013, at 1:00 p.m.
Due Process Hearing:	December 2, 2013, beginning at 1:30 p.m., and December 3-5, 2013, beginning at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: October 02, 2013

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings